



FIG Bulletin

Recent developments
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General

UK SMCR forms: PRA PS1/21

Following consultation, the UK Prudential Regulation Authority (PRA) has published a policy statement, [PS1/21](#), on updates to forms relating to the Senior Managers and Certification Regime (SMCR or SM&CR). The updates relate to:

- amending the [Notification Form](#) to reflect the new Financial Conduct Authority (FCA) address following their move to new premises and the new FCA logo. The PRA also proposed to make minor consequential amendments to the Notification Form. These amendments deleted an incorrect reference to the PRA as a limited company, updating references to the PRA Rulebook, and updating the General Data Protection Regulation notification; and
- updating [SM&CR Form L](#) to reinstate question 3.05, which requests that firms making a notification are to provide details of any disciplinary action taken.

The appendices to the policy statement also include the instrument that makes consequential amendments to the Notifications Part of the PRA Rulebook: [CRR Firms, Non-CRR Firms, Solvency II Firms, Non-Solvency II Firms: Forms Amendment Instrument 2021 \(PRA2021/1\)](#).

The final rules and the updated versions of the forms applied from 22 January 2021.

FCA-SEC MoU on financial services supervision

The FCA has published an amended and restated [memorandum of understanding](#) (MoU) it has entered into with the US Securities and Exchange Commission (SEC) relating to consultation, cooperation and the exchange of information relating to market oversight and the supervision of financial services firms. Among other things, the MoU reflects the departure of the UK from the EU. The MoU is a statement of intent to consult, cooperate and exchange information and covers:

- scope of information exchange, with the FCA and SEC stating they intend to consult regularly on general supervisory developments and issues relevant to firms;
- access to information in the UK and on-site visits;
- requests for assistance; and
- confidentiality of information.

COVID-19: FCA and FRC statement on extended financial information timelines

On 27 January 2021, the FCA and Financial Reporting Council (FRC) have published a [joint statement](#) reminding companies of certain continuing temporary reliefs for reporting published financial information. Such measures are [summarised](#) by the FCA and include:

- temporary relief for corporate reporting by listed companies, being an additional 2 months to publish annual financial reports (within 6 rather than 4 months of the financial year end date) and an additional month to publish half yearly financial reports (within 4 rather than 3 months of the financial half year end date). It is reiterated that this will remain in place until the disruption abates (at a minimum, for financial periods ending before April 2021) and plenty of notice will be given when it is decided to end it;

- the automatic extension for filing any accounts with Companies House by three months. While this expires on 5 April, companies will be granted a 3-month extension where they cite coronavirus as a factor affecting timely completion or audit of accounts;
- certain measures in the Corporate Insolvency and Governance Act 2020 to provide flexibilities around the conduct of AGMs, which have been extended to 30 March. While the Act provides no scope to extend them further, it is stated that the Department for Business, Energy and Industrial Strategy is working on further guidance; and
- the FCA has also put temporary measures in place to ease challenges for certain corporate transactions, summarised in [issue 27](#), [issue 28](#) and [issue 31](#) of its Primary Market Bulletin.

The statement encourages stakeholders, particularly listed company boards, to re-familiarise themselves with the measures and use them to ensure the quality of reporting is not compromised. It is also intended to alert investors and other users of financial information, including lenders assessing covenant breaches, that reporting timetables for companies might be extended and view those changes in the context of current events.

Companies are also reminded of their obligations under MAR, including that they must continue to assess carefully what constitutes inside information, recognising that the pandemic and policy responses may alter the nature of information material to a business's prospects. They are also reminded of the FRC's guidance for companies on corporate governance and reporting during the pandemic, and it is suggested that audit committees consider disclosing in their annual reports the measures taken to ensure high-quality reporting and audit for the period affected.

The FCA has also updated its related [Q&A](#).

FSCS 2021/22 management expenses levy limit: PRA and FCA consultation

The PRA and FCA have published a [joint consultation paper](#) (PRA CP4/21, FCA CP21/2) on the 2021/22 management expenses levy limit (MELL) for the Financial Services Compensation Scheme (FSCS). The proposed MELL for 2021/22 is £105.5 million. This consists of a management expenses budget of £90.5 million and an unlevied contingency reserve of £15 million.

The consultation closes on 19 February 2021. The proposed MELL will apply from 1 April 2021 (the start of the FSCS' financial year) to 31 March 2022.

FSCS 2021/22 plan and budget

The FSCS has published its [plan and budget](#) for 2021/22, which outlines the FSCS' expected management costs and initial levy forecast that firms will pay in 2021/22.

The indicative levy for firms is £1.04 billion, an increase of £339 million from the levies raised in 2020/21. The FSCS explains the increase is mainly due to an expected increase in failures because of the impact of COVID-19, a rise in complex pension advice claims, further failures of self-invested personal pension (SIPP) operators, and an increase in pay-outs for the general insurance provision class. The FSCS will keep this under review and will provide an update during 2021.

To help the FSCS effectively process the expected increase in claims, the management expenses that are being consulted on (see above) are £90.5m, a 9% increase from the FSCS 2020/21 forecast and a 16% increase against its 2020/21 budget. This stems from a forecasted 72% rise in volume of claims compared to our 2020/21 original forecast. Many of these claims are increasingly complex and, therefore, costlier to process.

The FSCS confirms that the supplementary levy for 2020/21 will be £78 million. The plan sets out data on the compensation costs driving the supplementary levy, including claims relating to London Capital & Finance plc (LC&F), return of funds cases, and pension advice compensation. The figures are based on a number of assumptions, including assumptions relating to the volume and cost of claims the FSCS expects to receive during the year.

The final FSCS levy will be confirmed in May 2021.

NCA SAR Reporter Booklet

The National Crime Agency (NCA) has published the [SAR Reporter Booklet](#). The booklet is produced by the United Kingdom Financial Intelligence Unit (UKFIU) which has national responsibility for receiving, analysing and disseminating financial intelligence submitted through the Suspicious Activity Reports (SARs) regime.

The UKFIU receives over 570,000 SARs a year. The booklet summaries the feedback from law enforcement on their use of SARs and is designed to:

- share perspectives on the use of SARs with participants of the regime;
- share and encourage best practice among reporters; and
- provide a feedback mechanism to the UKFIU about the operation of the regime.

The booklet provides examples on how SARs are applied in a variety of circumstances, including defences against money laundering (DAML), fraud, drugs and vulnerable persons.

Financial services: European Commissioner speech

The European Commission has published the [opening remarks](#) of Mairead McGuinness, European Commissioner for Financial Services, Financial Stability, and Capital Markets Union (CMU) at a meeting of the European Parliament's Economic and Monetary Affairs Committee (ECON). Commissioner McGuinness gives an overview of the Commission's financial services work, including relating to the future UK-EU relationship.

Commissioner McGuinness also notes that the Commission received over 46,000 replies to its consultation on the first Delegated Regulation on climate change mitigation and adaptation under the Taxonomy Regulation. Given this response, the Commission intends to delay the delegated act so that all responses can be considered.

Complaint handling and redress system for retail investors: IOSCO report

The International Organization of Securities Commissions (IOSCO) has published a [report](#) on complaint handling procedures and mechanisms for retail investors. The report is based on analysis of the responses to a survey sent to members and a review of academic and other literature on the subject matter. It presents nine sound practices on:

- establishing a system for handling retail investor complaints;
- taking steps to raise investor awareness of various available complaint handling systems;
- making available as many channels as possible for retail investors to submit complaints;
- taking steps to support complaint handling systems;
- encouraging financial service providers to offer a wide range of resolutions to retail investor complaints;
- using complaint data to identify areas for new or enhanced investor education initiatives and for regulatory and supervisory purposes;

- seeking input from retail investors about their experience with complaints handling systems; and
- making ADR facilities operated by or affiliated with a regulator more accessible for retail investors.

Banking and Finance

Capital buffers: PRA modification by consent

The UK Prudential Regulation Authority (PRA) has published a [direction](#) for modification by consent of 5.1 - 5.3 and 5.5 of the Capital Buffers Part of the PRA Rulebook. The PRA has also updated its [webpage](#) on capital buffers and Pillar 2A model requirements to reflect this direction. It states that the modification by consent should be read in conjunction with the [voluntary requirement](#) relating to capital buffers and Pillar 2A model requirements, which became applicable from 11pm on 31 December 2020.

The direction takes effect on the date stated in the table in Section A of the direction (20 January 2021) and remains in force for a period of five years or, if earlier, until superseded by a further direction relating to the same subject matter.

COVID-19: FCA final guidance on Bounce Back Loan Scheme

The UK Financial Conduct Authority (FCA) has published [finalised guidance](#) on the Bounce Bank Loan Scheme for firms using "pay as you grow" (PAYG) options. The guidance is for firms collecting payments under a Bounce Back Loan where the collection of that debt is a regulated activity. Collecting debts under BBLS may be a regulated activity where the borrower is a sole trader or small partnership. The guidance aims to help firms understand how they can use and offer PAYG options, complying with Chapter 7 (Arrears, default and recovery (including repossession)) of the Consumer Credit sourcebook (CONC) where it applies.

The FCA has also published a [feedback statement](#) summarising the feedback it received on its draft guidance and its response.

The guidance came into force on 27 January 2021 and remains in force unless the FCA varies or revokes it. The FCA explains that guidance is relevant to firm behaviour only to the extent it is current at the time of the behaviour in question. The guidance is without prejudice to the application of CONC 7 where it applies more generally.

EU review of crisis management and deposit insurance framework: European Commission consultation

The European Commission has launched a [targeted consultation](#) on the review of the crisis management and deposit insurance framework, which sets out the rules for handling bank failures while protecting depositors. The Commission has also published a [consultation document](#) and a [consultation strategy](#) document.

This targeted consultation is part of the overall consultation strategy for the review of the bank crisis management and deposit insurance framework and focuses on three EU legislative texts: the Bank Recovery and Resolution Directive (BRRD); the Single Resolution Mechanism (SRM) Regulation; and the Deposit Guarantee Schemes Directive (DGSD). The consultation seeks to gather stakeholders' experiences with the current crisis management and deposit insurance framework as well as their views on the revision of the framework.

The consultation closes on 20 April 2021.

CRR and BRRD: EBA letter on inconsistencies an impact on RTS on indirect subscription of MREL instruments

The European Banking Authority (EBA) has published a [letter](#) addressed to the European Commission outlining inconsistencies between the Capital Requirements Regulation (CRR) and the Bank Recovery and Resolution Directive (BRRD) and the subsequent impact on its ability to deliver the regulatory technical standards (RTS) under the mandate in Article 45f(6) of the BRRD on "daisy chains" of internal minimum requirement for own funds and eligible liabilities (MREL) instruments.

The EBA committed to deliver the mandate under Art 45f(6) BRRD by 31 December 2020. It published a consultation paper on the draft RTS on 27 July 2020.

However, following feedback to its consultation on draft RTS and further analysis, the EBA notes that it appears that the CRR does not allow the application of the prudential treatment needed for the mandate to be fulfilled as originally intended. Therefore, the EBA concludes that the legislative requirements cannot be fulfilled without additional provisions that the RTS, as mandated, cannot bear on its own, but rather needs to rely on the level 1 text to specify.

As a result, the EBA was unable to deliver the mandate under Article 45f(6) of the BRRD as it was required to do by 31 December 2020. It stands ready to explore, with the Commission, any approach that would enable it to fulfil the mandate in compliance with the relevant legislative acts.

SRF: Eurogroup statement on common backstop

The Eurogroup has [announced](#) that member states have signed amendments to the [Treaty establishing the European Stability Mechanism](#) (ESM) (ESM Treaty) and the [Inter-governmental Agreement \(IGA\) on the transfer and mutualisation of contributions to the Single Resolution Fund](#) (SRF) relating to the early introduction of the common backstop to the SRF.

The SRF provides medium-term funding support for the resolution of banks within the scope of the single resolution mechanism (SRM). The aim of the backstop, which will be introduced through the amendments to the ESM Treaty, is to address situations where the SRF proves not to be sufficiently funded by the banking sector. It will take the form of a revolving credit line from the ESM to the SRF. The amendments to the SRF IGA relate to consequential amendments arising from the backstop concerning the bringing forward of the mutualisation of ex-post contributions.

Member states will now ratify the amended agreements in accordance with national ratification procedures. They have made a [joint declaration](#) on their intention to complete the process of ratification of both sets of amendments as soon as necessary for the early introduction of the common backstop. The Eurogroup intends for the amendments to both agreements to enter into force from the start of 2022.

SFTs: BCBS consults on technical amendments on minimum haircut floors

The Basel Committee on Banking Supervision (BCBS) is [consulting](#) on technical amendments relating to the minimum haircut floors for security financing transactions (SFTs).

The BCBS is consulting on amendments to CRE56, which sets out the calculation of minimum haircut floors on SFTs. The BCBS proposes amendments to clarify the application of the exemption for collateral upgrade transactions in CRE56.5 and to correct a formula in CRE56.10 used to calculate haircut floors for netting sets of SFTs.

The deadline for responses is 31 March 2021.

The BCBS expects its members to implement its standards on minimum haircut floors for SFTs in CRE⁵⁶, which form part of the final Basel III reforms, by 1 January 2023.

Taxonomy Regulation: EBF and UNEP FI report on application to core banking services

The European Banking Federation (EBF) and the United Nations Environment Programme Finance Initiative (UNEP FI) have published a [joint report](#) assessing how the Taxonomy Regulation can be applied to core banking products.

The report shares key insights from the first set of comprehensive case studies on the application of the Taxonomy Regulation to core banking products, including retail banking, small and medium enterprises (SME) lending and corporate banking, including trade, export and project finance. From January to August 2020, 26 banks tested the taxonomy on more than 40 live or recently closed transactions and existing client relationships, across a large spectrum of economic activities.

The testing exercise led to eight recommendations addressed to legislators, regulators, owners of environmental and social standards and frameworks, labels and certification schemes used by banks, and banks. The recommendations to legislators and regulators aim to foster confidence and facilitate the implementation of the EU taxonomy in the banking sector. The report also summarises the benefits and challenges of applying the Taxonomy Regulation.

Consumer Finance

COVID-19: FCA updates mortgage and consumer credit repossessions guidance

On 27 January 2021, the UK Financial Conduct Authority (FCA) published a [statement](#) giving an update on mortgages, consumer credit, banking and payments during coronavirus. Among other things, the FCA confirms its updated Finalised Guidance: tailored support guidance for [Mortgages and coronavirus: updated Tailored Support Guidance for firms](#) and [Consumer Credit and coronavirus: updated Tailored Support Guidance for firms](#).

For mortgages, the FCA has extended its guidance so that firms should not enforce repossessions, except in exceptional circumstances, before 1 April 2021.

For consumer credit, it updates the guidance so that firms will be able to repossess goods and vehicles from 31 January 2021. The final guidance emphasises that this should only be as a last resort, and is subject to complying with relevant government public health guidelines and regulations, for example on social distancing and shielding. Importantly, firms will also need to consider the potential wider impact on vulnerable customers, including because of the pandemic, when deciding whether repossession of goods or vehicles is appropriate.

The updated guidance comes into force on 29 January 2021. The FCA summarises the feedback received and its response in a feedback statement, [FS21/2](#).

In the light of the ongoing uncertainties arising from the impact of COVID-19, the FCA will keep the guidance under regular review and will update or amend it, or provide new guidance, if it is required.

Payments

Global Payments Newsletter: January 2021

We have published our January 2021 [Global Payments Newsletter](#) which reports on:

- regulatory developments;
- payment market developments; and
- surveys and reports.

UK contactless card payments limit: FCA consults on increase

In a COVID-19 update on mortgages, consumer credit, banking and payments, the UK Financial Conduct Authority (FCA) [announced](#) that it intends to consult on increasing the spending limit for contactless card payments from £45 to £100.

The FCA notes that, since the limit for contactless card payments was raised to £45 in April 2020 at the start of the pandemic, people are increasingly making use of contactless payments. It states that it is important that payments regulation keeps pace with consumer and merchant expectations. Therefore, as part of a wider consultation, the FCA will shortly be seeking views on amending its rules to allow for a possible increase in the contactless limit to £100. This consultation has subsequently been published in [FCA CP21/3](#); the consultation period on the proposals relating to contactless is 24 February 2021.

UK SCA-RTS and payments and e-money approach documents: FCA CP21/3

The FCA has published a consultation paper, CP21/3, on changes to its technical standards on strong customer authentication and common and secure methods of communication (SCA-RTS), to the guidance in its approach document on payment services and electronic money (e-money), and to its Perimeter Guidance manual (PERG).

The proposals are intended to remove identified barriers to continued growth, innovation and competition in the payments and e-money sector (including open banking), while making the payments and e-money sector more resilient and protecting consumers if firms fail.

The deadline for responses to the FCA's proposals relating to contactless is 24 February 2021. The remainder of the consultation proposals close to comments on 30 April 2021.

Read more in our separate briefing: [And so it begins: FCA consults on post-Brexit changes to SCA-RTS and Payments Approach Document](#).

APP scams: LSB report on review of CRM Code

The Lending Standards Board (LSB) has published a [report](#) following its review of the contingent reimbursement model code (CRM Code) for authorised push payment (APP) scams. The review considered how the CRM Code has been implemented by firms, adopted into the wider payments landscape, and where improvements are needed to ensure greater consistency in its application. Based on its findings, the LSB has made ten recommendations.

The LSB will immediately begin work on the recommendations. Where the recommendations require further work, it will issue a call for input by the end of Q1 2021. The LSB will publish a timeline for its work by the end of February 2021.

The LSB has also published a [data analysis](#) to accompany the report, which provides information about types of APP scams, resolution decisions and customer reimbursement levels under the CRM Code.

Proposed codified Regulation on cross-border payments in EU: ECB opinion

The European Central Bank (ECB) has published an [opinion](#) on the European Commission's proposal for a new Regulation on cross-border payments in the EU to codify the existing Regulation on cross-border payments.

In the opinion, the ECB generally welcomes the codification exercise and notes that instruments affected by codification do not contain substantive changes. However, it opines on one provision of the proposed Regulation that was introduced by Regulation 2019/518. The provision relates to the reference to the euro foreign exchange reference rates issued by the ECB (ECBRRs).

The ECB is concerned that the reference to the ECBRRs in the proposed Regulation could, contrary to the objectives of the ECBRRs, create incentives for some market participants to trade at the ECBRRs. Therefore, the ECB recommends that the reference in Article 4 of the proposed Regulation to the ECBRRs is removed and replaced by an appropriate reference to a foreign exchange benchmark rate that falls within the scope of the Benchmarks Regulation (BMR), and which may be used in the context of the currency conversion charges. The accuracy and integrity of such benchmarks, ensured by the BMR, protects the interests of customers of payment service providers and parties providing currency conversion services.

The ECB's opinion includes a technical working document with suggested drafting to incorporate the suggested amendment.

Securities and Markets

LIBOR cessation: FCA speech

The FCA has published a [speech](#) given by Edwin Schooling Latter, FCA Director of Markets and Wholesale Policy, on being ready for life without LIBOR from the end of 2021. Highlights from the speech include:

- 85% of the uncleared UK derivatives market are ready for the end of LIBOR as 12,500 firms sign the ISDA protocol;
- the ICE Benchmark Administration consultation on the proposed end-dates for LIBOR has now closed, opening the way to determining and announcing the future path for all five LIBOR currencies simultaneously; and
- users of LIBOR should press ahead with transition plans – in their new business and their legacy LIBOR books.

IBOR fallback rates for derivatives come into effect: ISDA statement

The International Swaps and Derivatives Association (ISDA) has [confirmed](#) that new fallback rates for derivatives contracts linked to key interbank offered rates (IBORs) came into effect on 25 January 2021. The fallbacks will be incorporated into all new derivatives contracts that reference the 2006 ISDA Definitions from that date. They will also be included in legacy non-cleared derivatives if the counterparties have bilaterally agreed to include them or both have adhered to the IBOR Fallbacks Protocol.

The fallbacks cover Australia's Bank Bill Swap Rate, the Canadian Dollar Offered Rate, euro LIBOR, EURIBOR, HIBOR, the Singapore dollar Swap Offer Rate, sterling LIBOR, Swiss franc LIBOR, the Thai baht Interest Rate Fixing, TIBOR, euroyen TIBOR, yen LIBOR and US dollar LIBOR.

Read more in our separate briefing: [Are we there yet? Looking ahead now that ISDA's IBOR fallback supplement and protocol have gone live.](#)

CCP Recovery and Resolution Regulation

[Regulation \(EU\) 2021/23](#) on a framework for the recovery and resolution of central counterparties (CCPs) (CCP Recovery and Resolution Regulation) has been published in the Official Journal of the EU (OJ).

The CCP Recovery and Resolution Regulation will establish a legislative framework for the recovery and resolution of CCPs operating in the EU. The aim of the framework is to reduce the risk of a CCP failing and to establish procedures for the resolution of a failed CCP to limit impact on the financial system and on public funds.

The Regulation will enter into force on 11 February 2021. It will apply from 12 August 2022, except for:

- certain provisions in Articles 9 and 10 concerning recovery plans, which will apply from 12 February 2022;
- certain provisions in Articles 9 and 20 concerning the use of CCP's prefunded dedicated own resources and the compensation of non-defaulting clearing members, which will apply from 12 February 2023;

- amendments to Article 54 of the Markets in Financial Instruments Regulation (MiFIR) made by the Regulation are deemed to have applied retrospectively from 4 July 2020; and
- amendments to the European Market Infrastructure Regulation (EMIR) concerning the introduction of new Article 13a of EMIR, on the replacement of interest rate benchmarks in legacy trades, will apply from 11 February 2021.

BMR: Council of EU text of proposed amending Regulation to address benchmark cessation risks and exempt certain third-country FX benchmarks

The Council of the EU has published the [text](#) of the proposed Regulation amending the Benchmarks Regulation (BMR) as regards the exemption of certain third-country foreign exchange (FX) benchmarks and the designation of replacement benchmarks for certain benchmarks in cessation. The Council is expected to adopt the Regulation based on this text shortly, after which it will be published in the OJ.

CSDR: Delegated Regulation on RTS on settlement discipline postponed

[Commission Delegated Regulation \(EU\) 2021/70](#) amending Delegated Regulation (EU) 2018/1229, which supplements the Central Securities Depositories Regulation (CSDR) with regard to regulatory technical standards (RTS) on settlement discipline, has been published in the OJ. The new Delegated Regulation postpones the entry into force of Delegated Regulation 2018/1229 from 1 February 2021 to 1 February 2022.

The postponement is due to the impact of COVID-19 on the implementation of regulatory projects and IT deliveries by central securities depositories and a wide range of market participants.

EMIR: European Commission adopts Delegated Regulation on rules of procedure for penalties imposed on third-country CCPs

The European Commission has adopted a [Delegated Regulation](#) supplementing EMIR with regard to rules of procedure for penalties imposed on third-country central counterparties (CCPs) or related third parties by ESMA.

Article 25i(7) of EMIR empowers the Commission to adopt delegated acts to specify further the rules of procedures for the power (of ESMA) to impose penalties, including provisions on the rights of the defence, temporal provisions, and the collection of fines or periodic penalty payments, and the limitation periods for the imposition and enforcements of penalties.

The next step is for the Council of the EU and the European Parliament to consider the draft Delegated Regulation. If neither the Council nor the Parliament object, it will be published in the OJ and will enter into force the day after its publication.

EMIR: Implementing Decision on equivalence of US SEC regime

[Implementing Decision \(EU\) 2021/85](#) on equivalence of the US regulatory framework for CCPs authorised and supervised by the Securities and Exchange Commission (SEC) to the requirements of EMIR has been published in the OJ.

In the Decision, the Commission determines that the legal and supervisory arrangements applicable to US CCPs registered with the SEC are equivalent to requirements laid down in EMIR. The Decision applies only to SEC-regulated covered clearing agencies and is conditional: to be allowed to offer services in the EU, US CCPs must have rules in place with respect to certain

risk management requirements (liquidation periods and anti-procyclicality measures) specified in Article 1 of the Decision.

This Decision will enter into force on 17 February 2021.

EMIR: European Commission adopts Delegated Regulation on procedure for penalties imposed on trade repositories

The European Commission has adopted a [Delegated Regulation](#) amending Delegated Regulation EU 667/2014 with regard to the content of the file to be submitted by the investigation officer to ESMA, the right to be heard in relation to interim decisions and the lodging of fines and periodic penalty payments. Delegated Regulation (EU) 667/2014 supplements EMIR with regard to rules of procedure for penalties imposed on trade repositories by ESMA, including rules on the right of defence. The adopted Delegated Regulation amends Delegated Regulation 667/2014 to adapt the existing rules of procedure to take account of changes introduced by the EMIR Refit Regulation.

The next step is for the Council of the EU and the European Parliament to consider the draft Delegated Regulation. If neither the Council nor the Parliament object, it will be published in the OJ and will enter into force the day after its publication.

EMIR: ESMA updates Q&As

ESMA has updated its [Q&As](#) on the implementation of EMIR. It has updated the trade repository Q&A 3b to explain how to report the direction of derivatives in specific cases that are described. In addition, a new Q&A for trade repositories on the procedure for terminating "dead trades" has been added.

SFTR: ESMA updates Q&As on data reporting

ESMA has updated its [Q&As](#) on complying with reporting requirements under the Regulation on reporting and transparency of securities financing transactions (SFTR). The Q&As are updated to clarify:

- reporting of events that were not duly reported on time;
- updates to records of outstanding securities financing transactions by trade repositories based on reports made by counterparties; and
- operational aspects concerning the reporting by financial counterparties on behalf of small non-financial counterparties under Article 4(3) of SFTR.

Insurance

COVID-19: FCA Dear CEO letter on BI insurance test case and outcome table

On 22 and 29 January 2021, the FCA updated its [webpage](#) on its business interruption (BI) insurance test case. The FCA has published:

- a [Dear CEO letter](#) on the FCA's next steps and its expectations of insurers (and managing agents);
- a [table](#) setting out the outcome of the test case and key paragraphs of the judgments according to policy type in the representative sample of 21 policy wordings; and
- a [policy checker](#) and [FAQs](#) to help policyholders find out if their insurance policy may cover BI losses caused by coronavirus and what they can do next.

In the Dear CEO letter, the FCA states that the Supreme Court judgment gives insurers the clarity they need to conclude their claims processes with the large majority of BI insurance customers. The FCA encourages all insurers to do so as quickly as possible. In some cases, the judgment will mean that previously rejected claims (and complaints) are now valid or that the value of customers' valid claims will have changed. The FCA expects insurers to be clear on these points and on next steps as they write to policyholders with affected claims or complaints over the coming week.

The FCA states that it is essential that insurers reassess and settle claims quickly in light of the Supreme Court judgment, including making interim payments on policies where the claim has been accepted (either in full or in part) but elements of the calculation or agreement on the final settlement remain outstanding.

The remainder of the Dear CEO letter includes sections on:

- claims handling;
- deductions for Government support;
- reassessing complaints;
- communications with policyholders;
- providing information to the FCA on affected policies;
- further legal proceedings; and
- policies and perils outside the scope of the test case.

Pre-existing medical conditions: BIBA travel insurance directory

The FCA has updated its [webpage](#) on its policy statement, PS20/3, on signposting to travel insurance for consumers with pre-existing medical conditions (PEMCs) to announce that the British Insurance Brokers' Association (BIBA) has launched a [travel insurance directory](#) for people with serious PEMCs. This directory meets the FCA's criteria for a [Medical Cover Firm Directory](#) and means there are now two directories that meet the FCA's criteria, the BIBA one and the Money and Pensions Services directory confirmed by the FCA on 8 October 2020.

Going forward, all firms that offer retail travel insurance must include details of at least one of the confirmed directories on their websites, in accordance with the timing requirements in the FCA's Insurance Conduct of Business sourcebook (ICOBS) rule 6A.4.3R. This is to help ensure consumers have access to the directories before the signposting requirement is introduced on 26 April 2021.

Supervision of control functions: IAIS consults on draft Application Paper

The International Association of Insurance Supervisors (IAIS) is [consulting](#) on a [draft Application Paper](#) on the supervision of control functions in the insurance sector.

The draft Application Paper describes practices aimed at helping supervisors address issues related to the supervision of control functions as described in the Insurance Core Principles (ICPs) and the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame). In particular, the paper supports observance of ICP 8 (Risk management and control functions) and is relevant to ICP 5 (Suitability of persons) and ICP 7 (Corporate governance).

The consultation closes on 26 March 2021. The IAIS intends to hold a webinar on 10 February 2021 to discuss the paper.

Funds and Asset Management

HM Treasury call for input on review of UK funds regime

HM Treasury has published a [call for input](#) on its review of the UK funds regime, covering tax, relevant areas of regulation and opportunities for reform. The review started with a consultation on the tax treatment of asset-holding companies in alternative fund structures, to which the government [responded](#) in December 2020. This call for input sets out the scope and objectives of the review and invites stakeholders to provide views on which reforms should be taken forward and how these should be prioritised.

The deadline for comments is 20 April 2021. The government will analyse responses and consult on any specific proposals for reform.

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